

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
BIG STONE GAP DIVISION**

**UNITED STATES OF AMERICA**

v.

**HAROLD OWENS,**

Defendant.

)  
)  
) Case No. 2:15CR00005  
)  
)

**OPINION**

)  
) By: James P. Jones  
) United States District Judge  
)

*Harold Owens, Pro Se Defendant.*

The defendant, Harold Owens, who was sentenced by this court on March 31, 2016, has submitted a letter that I have construed as a Motion to Reopen the Time to Appeal. Upon review of the record, I find that the motion must be denied.

Owens claims that he told his attorney after sentencing to file a notice of appeal. Now that he has concluded correctly that no notice of appeal was filed, he wishes to appeal.

Owens' arguments have no merit. Rule 4(b)(1)(A) of the Federal Rules of Appellate Procedure mandates that a notice of appeal from a federal criminal judgment must be filed within fourteen days from entry of the judgment. Subsection 4(b)(4) authorizes the district court, "[u]pon a finding of excusable neglect or good cause, . . . [to] extend the time to file a notice of appeal for a period not to exceed 30 days from the expiration of the time otherwise

prescribed by this Rule 4(b).” Unlike Rule 4(a), which governs only appeals from civil judgments, Rule 4(b) does not include a provision allowing the court to reopen the time for filing a notice of appeal from a criminal judgment. The time periods presented in Rule 4(b) are mandatory and jurisdictional. *United States v. Raynor*, 939 F.2d 191, 196 (4th Cir. 1991); see also *United States v. Alvarez*, No. 07-4165, 2007 WL 2320063 (4th Cir. Aug. 15, 2007) (unpublished) (finding that district court erred in granting defendant an extension to file notice of appeal exceeding time periods in Rule 4(b), based on allegations that defendant thought counsel had filed a notice of appeal). Thus, under the rules governing this criminal case, I cannot grant Owens a renewed opportunity to file a notice of appeal.

For the stated reasons, it is hereby **ORDERED** that the Motion to Reopen the Time to Appeal is hereby DENIED.

ENTER: February 7, 2017

/s/ James P. Jones  
United States District Judge